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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,205	06/15/2001	JAY H. CONNELLY	042390P11860	8464

7590 03/26/2007  
 James Y. Go  
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EXAMINER
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HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/882,205

Applicant(s)

CONNELLY, JAY H.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 43-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/16/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/03/2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-12, 43-49 have been considered but are moot in view of the new ground(s) of rejection.

Claims 13-42 have been canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12, 43-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2004/0117831, hereinafter referred to as E831) in view of Payton (US 5,790,935).

Regarding claim 1, E831 discloses a method, comprising:

broadcasting content descriptors, which describe available content being considered for potential inclusion in a future broadcast schedule, to a plurality of clients (broadcasting content descriptors such as category, channel, title, etc. (figures 2-5, 31) which describes available content being considered for inclusion in a future broadcast schedule (figures 11, 22-27, 31), to plurality users of the user television equipments – see include, but are not limited to, figures 1b-1d, 4, paragraphs 0088-0089, 0092, 0094, 0099, 0124, 0131, 0195-0196, 0201, 0216);

receiving feedback from at least one of the plurality of clients regarding the content descriptors, the feedback being an indication from the at least one of the plurality of clients of the relative desirability of the available content described by the content descriptors (receiving feedback such as viewing viewer rating, vote, or viewing habits, etc. from at least one of the plurality of users, the feedback being an indication of the relative desirability of the available content described by the content descriptor e.g., two happy faces, one unhappy face, or one happy face, or favorite program, etc., – see

include, but are not limited to, figures 8-1118, 24-26, paragraphs 0156, 0160, incorporated by reference U.S patent 7,185,355 (hereinafter referred to as E355), figures 7-14);

refining a list of available content in response to the feedback to create the future broadcast schedule (e.g., displaying a list of future broadcast schedule based on user preferences/profiles, or user selections, etc. see include, but are not limited to, paragraphs 0115, 0119, 0120, 130-131, 0136, 0149, 0150, 0157), wherein refining the list of available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of air times, or rating, etc. in which at least a portion of the available content (e.g., content title, a clip, etc.) will be broadcast (see include, but are not limited to, paragraphs 0136-0138, 0157-0158) ; and

broadcasting content listed in the refined list of available content, according to the future broadcast schedule to clients (broadcasting selected content/program listed in the selected list, according to the future broadcast schedule (e.g. air times), to users at user television equipments – see include, but are not limited to, paragraphs 0135, 0196, 202, 0216, 0239, 0250, incorporated by reference 2005/0262542, paragraphs, 0052, 0055, 0013).

However, E831 does not explicitly disclose available content listed in refined list is broadcast to the plurality of clients as prioritized by the refining list.

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Payton discloses lists 44 of recommended items are updated request, or preferences of subscribers; scheduling processor 46 merges the lists 44 of recommended items to prioritize the items 36 from the most to the least frequently recommended and places identifiers for these items in a refresh queue 47 for broadcast over the digital transport system 26 to the local users (see include, but are not limited to, col. 4, line 35-col. 5, line 57, col. 6, line 64-12) is read on the limitation "broadcasting the available content listed in the refined list of available content, according to the future broadcast schedule as prioritized by the refining, to the plurality of clients". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify E831 to use the teaching as taught by Payton in order to at least improve bandwidth cost effectively (col. 4, lines 35-44).

Regarding claim 2, E831 in view of Payton teaches a method as discussed in the rejection of claim 1. E831 further discloses repeating operations of broadcasting further descriptive content, which further describes the available content listed in the refined list of available content, and receiving corresponding additional feedback to further refine the list of available content in response to additional feedback (broadcasting further descriptive content such as identifier, air time, or video clips, etc. of the movie according to the user preference, user selection, or user rating, etc. and receiving user selection for additional information of the movie (e.g., video clip, program information, actor/actress, or full title, etc.) to further refine/sort the list of programs/movies in response to the selection for additional information – see including, but are not limited

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to, figures 13, 16, 54A, 54E, paragraphs 0111, 115, 118, 0123, 0127-0128, 0132-0133, 0138-0139).

Regarding claim 3, E831 in view of Payton teaches a method as discussed in the rejection of claim 2. E831 further discloses the further descriptive content (e.g. additional information, content title, actor/actress name, air time, or video clip, etc. – figures 6-16, 24) is more descriptive of the available content than previous broadcast descriptive content (e.g. category, type, etc. in main menu, figures 2-3,5).

Regarding claim 4, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1.

the limitation “receiving first feedback from the plurality of clients regarding the content descriptors, the first feedback being an indication from the plurality of clients of the relative desirability of the available content described by the content descriptors” corresponding to the limitation “receiving feedback...” in claim 1, and are analyzed as discussed in the rejection of claim 1.

the limitation “sorting available content in response to the first feedback from the clients” is interpreted as sorting available content by time, by channel, by theme, or by favorite, etc. in response to user selection of display by time, display by channel, display by theme, or display by favorite, etc. see include, but are not limited to, E831, figures 2-3, 5-14);

broadcasting further descriptive content related to at least a first portion of the available content as sorted to the clients (broadcasting descriptive content such as program title, actor/actress, channel, airtime, additional information, or video clip, etc. related to user selection of particular category, type, etc. to users of user television equipments— see include, but are not limited to, E831, figures 5-14, 27, 31);

receiving next feedback from the plurality of clients regarding the further descriptive content (e.g. receiving user selection for additional information, program information, or video clips, etc. from the plurality of users of user television equipments —see include, but are not limited to, E831, figures 5-16, 50, 53A, 53E, 54A);

sorting the available content in response to the next feedback from user to create the future broadcast schedule (search for available content for additional content such as program title, airtime etc., in response to user selections, to create the future broadcast schedule – see include, but are not limited to, paragraphs 0135-0138), wherein sorting the available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of time in which at least a portion of the available content (e.g., content title, video clip, or program information, etc.) will be broadcast (see include, but are not limited to, paragraphs 0135-0138, 0157, 0181-0182);

broadcasting at least a second portion of the available content to the client in an order responsive to the next feedback from the client as prioritized by the sorting and according to the future broadcast schedule (broadcasting selected content/program listed in the selected list, air times lists, etc. as prioritized by the selected list, or air time



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list, according to the future broadcast schedule, to users at user television equipments so the selected/sorted content is received at the television equipment for recording or watching – see discussed in the rejection of claim 1 and E831, paragraphs 0196, 213, 0239, 0249-0250).

However, E831 does not explicitly disclose future broadcast scheduled is created in response to feedback from plurality of clients, and broadcast at least a second portion of the available content to the plurality of clients as prioritized by the sorting and according to the future broadcast schedule.

Payton discloses lists 44 of recommended items are updated requests, or preferences received from plurality of subscribers; scheduling processor 46 merges the lists 44 of recommended items to prioritize the items 36 from the most to the least frequently recommended and places identifiers for these items in a refresh queue 47 for broadcast over the digital transport system 26 to the local users (see include, but are not limited to, col. 4, line 35-col. 5, line 57, col. 6, line 64-12) are read on the limitation “future broadcast schedule is created in response to feedback from plurality of clients” and “broadcasting at least a second portion of the available content to the plurality of clients in an order responsive to the next feedback from the plurality of clients as prioritized by the sorting and according to the future broadcast schedule”. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify E831 to use the teaching as taught by Payton in order to at least improve bandwidth cost effectively (col. 4, lines 35-44).

Regarding claim 5, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. E831 further discloses repeating:

broadcasting further descriptive content (e.g. additional information, video clip, or program information, score, etc.) related to a narrower portion of the available content as sorted to the plurality of clients (see include, but are not limited to, paragraphs 0092, 0099, 0110, 0128, 0138, 0181);

receiving next feedback from the plurality of clients regarding the further descriptive content (receiving selections of additional information, votes, etc. from users see include, but are not limited to, paragraphs 0111, 0128, 0132-0133, 0137-0139, 0155, 0167, 0192).

Regarding claim 6, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. E831 further discloses the further descriptive content less expensive to the broadcast to the clients than the available content (since only a portion of the content (i.e., video clip, title, etc.) is broadcast – see include, but is not limited to, figure 13).

Regarding claim 7, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. The claimed feature “the sorting of the available content in response to the next feedback comprises assigning a higher weight to the next feedback than the first feedback” is broadly interpreted as searching/sorting content

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more related to the second selection (e.g. for movie titles, air times, or detail information, etc., see include, but are not limited to, E831, figures 7, 10, 13-16, 20, 23-24) than the first selection (e.g. a theme, type, etc. – see include, but are not limited to, E831, figures 2-3).

Regarding claim 8, E831 in view of Payton teaches a method as discussed in the rejection of claim 7. E831 further discloses broadcasting of second portion (e.g., program information, or program content as scheduled air times, etc.) in an order further responsive to the first feedback from the plurality of users (in an order responsive to the users' viewing habits, users' preferences, user profile, or user selections, etc. – see include, but are not limited to, paragraphs 0088, 0092, 0099, 0110, 0118, 0123, 0128, 0131, 0138, 0148, 0158, 0195-0197, 0201-0203, 0213, 0215-0216, 0250).

Regarding claim 9, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. E831 further discloses broadcasting further descriptive content comprises broadcasting partial available content to the plurality of clients (e.g. text and graphics, video clip, etc. advertising pay per view programs or other programs – see include, but are not limited to, figures 7, 8, 13). Payton also discloses broadcast partial content to the plurality of clients (broadcast digital items in item list 44 – see discussed in the rejection of claim 4 above).

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Regarding claim 10, E831 in view of Payton teaches a method as discussed in the rejection of claim 9. E831 further discloses users' viewing habits, user selections of particular video clip, vote for a particular program, team, or purchase a pay per view program, feedback information related to movies, etc., are collected (see include, but are not limited to, paragraphs 0131, 0137-0138, 0147), users favorite programs are displayed or automatically recorded (paragraph 0202); and providing hot movies list, popular shows, etc. (paragraphs 0130-0131, 0250). Thus, the further descriptive content broadcast to the plurality clients (users of user television equipments) is kept track, wherein the broadcast of at least a second portion of the available content comprises broadcasting a portion of a remaining portion of the partial available content to the plurality of clients when the clients select, order the content so that the users can watch or record the remaining portion of a program such as pay per view program or popular show, or hot movie, etc.

Regarding claim 11, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. E831 further discloses the available content comprises at least one of video information, graphical information, or textual information (see include, but are not limited to, figures 7, 8, 12-13, 16).

Regarding claim 12, E831 in view of Payton teaches a method as discussed in the rejection of claim 4. E831 further discloses the further descriptive content comprises at

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least one of a graphical clip, a textual description (see include, but are not limited to, figures 13, 16, 53E).

Regarding claim 43, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4. E831 further discloses the apparatus (television distribution facility and/or user television equipment) comprising:

- a processor (processor e.g., part of server 22 for task associated with providing program guide data and other niche hub data to the program guide on the set top boxes) having circuitry to execute instructions (see include, but are not limited to, paragraphs 0100-0101);

- a communication interface (i.e. program distribution equipment or interface to user television equipment) coupled to the processor, the communication interface coupled to receive communication from one or more clients (e.g., receiving communication from one or more users of user television equipments – see include, but are not limited to, figures 1a-1d, paragraphs 0088, 0092);

- a storage device (e.g. storage device in the server at television distribution facility – see include, but is not limited to, paragraph 0097) coupled to the processor, having instructions stored therein, which when executed cause the apparatus to perform functions as discussed in claim 4.

Regarding claim 44 and 46, the additional limitations of the apparatus as claimed correspond to the additional limitations of the method as claimed in claims 8 and 5, and are analyzed as discussed with respect to the rejection of claims 8 and 5.

Regarding claim 45, E831 in view of Payton teaches a method as discussed in the rejection of claim 43. E831 further discloses the available content includes the further descriptive content (e.g. program title, program description, additional information, etc. – figures 7, 13, 16).

Regarding claim 47, the limitations of the system that correspond to the limitation of the method as claimed in claim 4 are analyzed as discussed with respect to the rejection of claim 44. E831 further discloses the system comprises a server (e.g. television distribution facility 16 – figure 1a-1d) and one or more clients (users of user television equipments – figures 1a-1d) coupled to the server.

Regarding claims 48-49, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kim et al. (US 2002/0129375 A1) discloses adaptive video on-demand system and method using tempo-differential file transfer.

Herz et al. (US 5,758,257) discloses system and method for scheduling broadcast of and access to video programs and other data using customer profiles.

Thomas et al. (US 2005/0149964 A1) discloses program guide with monitoring of advertisement usage and user activities.

DeWeese et al. (US 2005/0262542 A1) discloses television chat system.

Ellis et al. (US 7,185,355) discloses program guide system with preference profiles.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

March 22, 2007

A handwritten signature in black ink, appearing to read 'Son P. Huynh', with a horizontal line underneath.